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DEED OF TRUST AND SECURITY AGREEMENT

BY

**AUDRAIN COUNTY, MISSOURI,
as Grantor**

to

**WILLIAM E. EKEY
as Grantee**

for the benefit of

**COMMERCE BANK, N.A.,
as Trustee**

DEED OF TRUST

THIS DEED OF TRUST, made and entered into as of April 15, 2000 by and among AUDRAIN COUNTY, MISSOURI, a third class county organized under the laws of the State of Missouri, having its principal office located at 101 North Jefferson, Mexico, Missouri 65265 (the "County"), WILLIAM E. EKEY, an individual citizen of the State of Missouri, who resides in Jackson County, Missouri, and whose mailing address is Kansas City, Missouri, as Grantee (together with its successors in trust collectively referred to as the "Mortgage Trustee"), for the benefit of COMMERCE BANK, N.A., a banking association duly organized and existing under the laws of the United States of America, having its principal office located at 922 Walnut, 5th Floor, Kansas City, Missouri, and its successors and assigns, as trustee under a Trust Indenture dated as of the date hereof (the "Trustee").

WITNESSETH:

WHEREAS, the County is authorized under Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended and Article VI Section 27(b) of the Missouri Constitution (the "Act"), to issue revenue bonds to provide funds for the carrying out of a project under the Act and to sell, lease or mortgage to private persons, partnerships or corporations the facilities purchased, constructed, extended or improved by the County for manufacturing, commercial, warehousing and industrial development purposes pursuant to the Act; and

WHEREAS, pursuant to the Act, the governing body of the County adopted an Ordinance on April 6, 2000, authorizing the County to issue its industrial development revenue bonds in a principal amount not to exceed \$270,000,000, for the purpose of purchasing, constructing, extending and improving a project, described on Exhibit B hereto (the "Project") including land, buildings, structures, improvements, fixtures, machinery and equipment as hereinafter more fully described, and authorizing the County to lease the Project to Duke Energy Audrain, LLC, a Delaware limited liability company (the "Company");

WHEREAS, the County is authorized to execute and deliver a Trust Indenture (the "Indenture") for the purpose of issuing and securing the Bonds (as hereinafter defined), and to enter into a Lease Agreement of even date herewith (the "Lease"), with the Company under which the County as Lessor, will purchase, construct, extend and improve the Project and will lease the Project to the Company, as Lessee, in consideration of rentals which will be sufficient to pay the principal of and interest on the Bonds;

NOW, THEREFORE, in consideration of the purchase of the Bond by Duke Capital Corporation, the trust hereinafter created and the sum of ONE DOLLAR (\$1.00) to it paid by the Mortgage Trustee, and of other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and as security for the prompt payment when due of the principal and interest on the Bond, whether at the stated maturity thereof, or upon maturity by acceleration and all other amounts payable by the County under the Indenture, the Bond and this Deed of Trust, according to their respective terms and conditions, and for the performance by the County of the agreements, conditions, covenants, provisions and stipulations contained herein and therein, the County does hereby GRANT, BARGAIN AND SELL, CONVEY AND CONFIRM unto the Mortgage Trustee, and unto his successors and assigns forever, in trust, and assigns and grants to the Trustee for the benefit of the legal owner from time to time of the Bond a security interest in, all of the hereinafter described properties whether now owned or hereafter acquired situated in Audrain County, Missouri (the "Property"):

1. The real estate described in Schedule 1 hereto (the "Land").

2. All right, title and interest of the County in and to all buildings, improvements and fixtures, and all other property constituting real property or real estate under the laws of the State of Missouri now located, or hereafter erected, upon the Land, including without limitation the Project, and all right, title and interest of the County, in and to any and all strips and gores of land, in and to all land upon which any such buildings or improvements may now or hereafter encroach, and in, to and under the land within the streets, roads and alleys adjoining all such real property, and in and to all and singular the tenements, hereditaments, appurtenances, privileges, easements, franchises, rights, appendages and immunities whatsoever belonging to or in any wise appertaining to all such real property.

3. All right, title and interest of the County (now owned or hereafter acquired) in and to the equipment, and other articles of property (real, personal or mixed) at any time now or hereafter installed in, attached to or situated in or upon the Land or other real estate described above or the buildings and improvements to be erected thereon, or the buildings and improvements, plant, business or dwelling situated thereon, whether or not the said property is or shall be affixed thereto, including, without limiting the generality of the foregoing, all during the course of, or in connection with, any construction of any buildings and improvements related to the Project.

4. All leases or subleases of the Property, or any part or portion thereof, now or hereafter entered into or presently in existence and all right, title and interest of the County thereunder, including, without limitation, the Lease, as the same may be amended from time to time, and including cash and securities deposited under said leases or subleases.

5. All rents from, all issues, uses, profits, proceeds (including insurance proceeds) and condemnation awards, and products of, all replacements and substitutions for, and other rights and interests now or thereafter belonging to, any of the foregoing.

6. All right, title and interest of the County under any and all construction and architectural or design contracts, and all right, title and interest of the County to surveys, plans and specifications and information, and any and all other items to be used in connection with the construction of the Project.

7. Any and all proceeds of any and all of the foregoing Property.

TO HAVE AND TO HOLD THE SAME, with all appurtenances thereto, unto the Mortgage Trustee, and unto his successor or successors and assigns forever in trust, however, for the purpose of securing Grantor's payments and performance under the Indenture and the Bonds.

AND TO FURTHER SECURE its payments and performance under the Indenture and the Bond, the County has covenanted and agreed and does hereby covenant and agree, herein and in the Indenture and the Bond, as follows:

1. The security hereof shall not affect or be affected by any other security taken for the indebtedness represented by the Indenture and the Bond or any part thereof. The taking of additional security, or the extension or renewal of the indebtedness represented by the Indenture and the Bond or any part thereof shall not release or impair the security hereof or improve the right of any junior lienholder; and this Deed of Trust as well as any instrument given to secure any renewal or extension hereof, shall be and remain a first and prior lien on all parts of the Project until the indebtedness represented by the Indenture and the Bond is paid.

2. In the event of any failure or default in the performance of any of the covenants or agreements of the County contained in this Deed of Trust or in the event of the occurrence of an "Event of Default" under the Indenture, the Bond or the Lease, the Trustee, its successors or assigns, may, without notice, subject to the rights of the County to cure such default, if any, declare the whole of the unpaid debt due thereunder, or any part thereof, to be immediately due and payable.

3. Notwithstanding any provision herein to the contrary, this Deed of Trust is nonrecourse against the County except to the extent of the Project and revenues derived by the County under the Lease.

4. This Deed of Trust secures future advances and future obligations within the meaning of §443.055, RSMo., and this Deed of Trust shall be governed by said §443.055. The "Face Amount", as defined in §443.055, is \$270,000,000. The total amount of obligations that may be secured by this Deed of Trust may decrease or increase from time to time, but the total principal amount of the obligations secured at any given time may not exceed the Face Amount as stated above, except as to advances made pursuant to subsection 3 of §443.055 (dealing with future advances and/or future obligations made or incurred for the reasonable protection of the beneficiary's lien and security interest under this Deed of Trust). The priority of any lien hereunder securing such future advances and future obligations shall date from the time this Deed of Trust is recorded in the applicable real property records, all in accordance with §443.055. The County, for itself and its successors and assigns as owner of the real property encumbered by this Deed of Trust (not including the Mortgage Trustee), to the maximum extent permissible under Missouri law, hereby waives any rights that it may otherwise have under Section §443.055, and hereby agrees not to terminate or give notice to terminate the operation of this security instrument as security for future advances or future obligations made or incurred after the date of such termination or notice. Any such termination or notice of termination shall, at the election of the Mortgage Trustee and subject to the notice and cure provisions provided for in the Indenture, constitute an Event of Default under the Indenture. In no event, however, shall any such termination affect the continued security or priority of this security instrument as security for the obligations outstanding on the date of such notice or termination.

PROVIDED, HOWEVER, if the amounts due under the Indenture and the Bond be paid when due, and the agreements therein and herein contained be faithfully performed as aforesaid, these presents (including the lease hereinafter set forth) shall be void, and the Property shall be released at the cost of the Company. If the amounts due under the Lease and the Bond, or any part thereof, be not so paid when due according to the terms of the Indenture, the Bond or this Deed of Trust, or if default shall be made in the faithful performance of said covenants and agreements, or any of them, as therein and herein set forth, then the whole of the Bond shall become due and be paid as hereinafter provided, and this Deed of Trust shall remain in force and effect and the Mortgage Trustee or his successor in trust as hereinafter provided shall be at the request of the holder of the Bond proceed to sell the property hereinbefore described at public vendue to the highest bidder for cash at a front door (to be designated by the Mortgage Trustee) of the building then appointed for holding foreclosure sales in Audrain County, Missouri at Mexico, Missouri, first giving notice of such sale in the manner now prescribed by statute. The sale of the Property may be by one or more parcels and in such order as the Mortgage Trustee may determine. The Mortgage Trustee may postpone the sale of all or any parcel of the Property to any later time by public announcement at the time and place of any previously scheduled sale. Upon such sale, the Mortgage Trustee shall execute and deliver to the purchaser or purchasers thereof a deed of conveyance of the Property sold, and shall receive the proceeds of said sale or sales, and out of the same shall pay: **FIRST**, the reasonable costs and expenses of executing this trust including compensation to the Mortgage Trustee for his services; **SECOND**, to the Trustee or to the Mortgage Trustee or their

respective successors or assigns, upon the delivery of the usual vouchers therefor, all moneys paid for insurance or taxes or judgments upon statutory liens, claims and interest thereon, together with interest thereon as hereinbefore provided; **THIRD**, the principal due under the indebtedness represented by the Indenture and Bond with all interest due thereunder to the time of such payment; provided, payments shall be credited first to interest and then to principal; **AND THE BALANCE** of such proceeds, if any, shall be paid to the County or its successors and assigns, or those lawfully entitled thereto.

The Trustee, its successors or assigns, at any time it or they may desire, may, by an instrument in writing executed and recorded according to law appoint a substitute trustee to act instead of the Mortgage Trustee named herein; and is further authorized so to appoint other substitute mortgage trustees successively, during the life of this Deed of Trust, and such mortgage trustees shall each and all succeed to the rights and power of the Mortgage Trustee named herein, and the County does hereby ratify and confirm any and all acts the said Mortgage Trustee, or his successors or successors in trust, may lawfully do by virtue hereof.

In case of any sale hereunder, it is agreed that the records in any deeds to the purchasers shall be accepted in any court as *prima facie* evidence of the truth of the matters therein stated, and it shall be presumed that all acts essential to the validity of the sale have been performed.

And the Mortgage Trustee hereby covenants faithfully to perform the trust herein created, and hereby lets the Property unto the County until a sale be had under the foregoing provisions upon the following terms and conditions to wit: The County, its successors and assigns, will pay rent therefor during said term at the rate of one cent (1¢) per month, payable monthly upon demand, and shall and will surrender peaceable possession of the Property, and every part thereof, sold under said provisions, to the Mortgage Trustee, its successors or assigns, or any purchaser or purchasers under such sale, within ten (10) days after the making of such sale, without notice or demand therefor.

To the extent any of the property covered by this Deed of Trust consists of property, rights or interests covered by the Missouri Uniform Commercial Code, this Deed of Trust shall constitute a security agreement and a present unconditional assignment of, and is intended to create a security interest in, such property in favor of the Trustee. During the continuance of any default hereunder, under the Bond or the Indenture or any other document or instrument evidencing, securing or otherwise relating to the debt hereby secured, the Trustee shall have all the rights of and remedies with regard to such property available to a secured creditor under the Missouri Uniform Commercial Code. This Deed of Trust shall be self-operative with respect to such property, but the County agrees to execute and deliver on demand such security agreements, financing statements, continuation statements and other documents necessary to perfect a security interest in such property as the Trustee may request in order to impose or continue the lien and security interest hereof more specifically in any such property. In the event that the County fails to execute any of such instruments within ten (10) days after demand to do so, the County does hereby make, constitute and irrevocably appoint the Trustee as its attorney-in-fact and in its name, place and stead so to do.

This Deed of Trust shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the County has caused this Deed of Trust to be signed in its name and behalf by its Presiding Commissioner and its corporate seal to be hereunto affixed and to be attested to by its County Clerk, all as of the day and year first above written.

AUDRAIN COUNTY, MISSOURI

By: Richard D. Wahlen
Presiding Commissioner



ATTEST
Debbie K. Kiersey
County Clerk

ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS.
COUNTY OF Audrain)

On this 1st day of April, 2000, before me, the undersigned, a Notary Public in and for said State, personally appeared RICHARD WEBBER, to me personally known, who, being by me duly sworn, did say that he is the Presiding Commissioner of AUDRAIN COUNTY, a Missouri third class county, and that the seal affixed to the foregoing instrument is the seal of said County, and that said instrument was signed and sealed in behalf of said County by authority of its governing body, and said officer acknowledged said instrument to be the free act and deed of said County.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Lynd L. Baker
Notary Public in and for said State
Commissioned in Audrain County

(SEAL)
PUBL

My commission expires: 2-5-03

SCHEDULE 1

Description of the Land

A tract of land being part of the Southeast Quarter of Section 2, in Township 52 North, Range 6 West of the Fifth Principal Meridian, in the County of Audrain and State of Missouri, being more particularly described as follows: Starting at the Southeast corner of said Section 2, thence N 00°10'30" E, along the East line of said Section 2, 40.00 feet to a point on the North right-of-way line of State Route "P", also being the Southeast corner of a tract of land described in Deed recorded in Book 298, at Page 882 of the Deed Records of Audrain County, Missouri, the point of beginning; thence from the point of beginning, leaving the East line of said Section 2, and with the North right-of-way line of State Route "P", also being the South line of said tract described in Deed recorded in Book 298, at Page 882, N 89°19'00" W, 2022.10 feet; thence N 89°12'00" W, 299.55 feet; thence leaving the lines of said tract and said North right-of-way line, N 00°55'00" E, 1969.70 feet to a point on the North line of the tract described by Deed recorded in Book 298, at Page 882; thence with said North line, S 89°21'00" E, 2296.10 feet to a point on the East line of said tract, also being the East line of said Section 2; thence with said East line, S 00°10'30" W, 1974.35 feet to the point of beginning.

SUBJECT TO:

1. Agreement for Right-of-Way to Panhandle Eastern Pipe Line Company recorded in Book 114, Page 297 of the Deed Records of Audrain County, Missouri.
2. Easement to Union Electric Company recorded in Book 204, Page 271 of the Deed Records of Audrain County, Missouri.



RECORDER'S INFORMATION

State of Missouri County of Audrain, ss.

Filed for record at 11 o'clock 51 min.
4 m. Recorded in book 162 page 362
1st day SEPT month 2000

Witness my hand and seal of office
Virginia Pehle, Recorder

Virginia Pehle

By Claire Lowry Deputy
Claire Lowry